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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/085,044

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Daisuke Miyakoshi

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25944

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10/17/2006

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EXAMINER

REILLY, SEAN M

ART UNIT

PAPER NUMBER

2153

DATE MAILED: 10/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/085,044	Applicant(s) MIYAKOSHI ET AL.	
	Examiner Sean Reilly	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 43-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 43-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This Office action is in response to Applicant's amendment and request for reconsideration filed on July 21, 2006. Claims 1-21 are presented for further examination. All previously pending claims have been canceled. New claims 43-50 have been added.

#### ***Response to Arguments***

Applicant appears to argue that Favichia only discloses protocol negotiation between two nodes and does not provide for negotiation between more than two nodes. Examiner notes that all of Applicant's claims only require the negotiation of a communication parameter for communications between two nodes. Claims 44-47 and 49-50 fail to even mention a third communication device. Thus, with regard to claims 44-47 and 49-50 the same rejection rationale previously set forth in the combination of Favichia and Bjorndahl is maintained. Claims 43 and 48 appear to require the negotiation of communication parameters for a first and second device to communicate to occur at a third device (in other words at a central or intermediary device). Examiner agrees that Favichia does not explicitly recite such functionality but maintains that it would be an obvious modification to Favichia's system as set forth in the 103 rejection below.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**1. Claims 44-47 and 49-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Favichia et al. (U.S. Patent Number 6,125,122; hereinafter Favichia) and Bjorndahl (U.S. Patent Publication Number 2002/0065099).**

2. With regard to claims 44-47 and 49-50, Favichia disclosed a communication device (nodes in the wireless communication network, Figure 1 and Col 1, lines 25-28), comprising:

- a storage unit that stores information one or more wireless communication protocols that are usable by another communication device that is different from the communication device and belongs to a network which the communication device belongs to; (e.g. the second node receives and stores the operating communication protocol of the first network node; Col 2, lines 61-67; also see Col 4, lines 46-52);
- a communication unit that communication with a communication terminal via a connection (i.e. the second node is able to communicate with the first node);
- a control unit that executes (e.g. the functionality found in the second node of Favichia):
  - a. receiving, from the communication terminal via the communication unit information one or more wireless communication protocols that are usable by the communication terminal (e.g. the second node receives and stores the operating communication protocol of the first network node; Col 2, lines 61-67; also see Col 4, lines 46-52),
  - b. determining one or more communication parameters that are required for communication between the communication terminal and the other communication

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- device on the basis of the information stored in the storage unit and the information received via the communication unit (e.g. at the second node selecting a protocol the first and second nodes can communicate using, see inter alia Col 2, lines 59-67);
- c. transmitting, to the communication terminal via the communication unit the determined one or more communication parameters (e.g. the second node sends the first node the protocol to use, Col 2, line 67 – Col 3, line 4).
  - d. Communicating with the other communication terminal via the communication unit using the received one or more communication parameters (e.g. the first and second nodes communicate using the selected protocol, Col 3, lines 1-4).

Favichia disclosed the invention substantially as claimed however, Favichia failed to specifically recite communicating over a cabled connection or a short distance wireless connection. In an analogous art, Bjorndahl disclosed a method for setting communication parameters between two communication devices (abstract). The two communication devices each house two communication units within, a first IR (§ 17) and a second RF (wireless) (§ 17). In the Bjorndahl system, communication parameters (protocols) for communicating using the second communication units (RF) are established over the first communication units (IR link) (§ 34). The IR connection is utilized for establishing the communication parameters since it is within close proximity and thus less vulnerable to eavesdropping and more secure (Bjorndahl § 43). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the connection establishment teachings of Bjorndahl (described above) within the Favichia system since connection establishment over an IR connection within close

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proximity is more secure, particularly in the wireless environment which is vulnerable to eavesdropping (Bjorndahl ¶ 43).

**3. Claims 43 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Favichia et al. (U.S. Patent Number 6,125,122; hereinafter Favichia) and Bjorndahl (U.S. Patent Publication Number 2002/0065099) and Tourrilhes et al. (U.S. Patent Number 6,975,857; hereinafter Tourrilhes).**

4. With regard to claims 43 and 48, claims 43 and 48 are similar to claims 44-47 and 49-50 are rejected using a similar rationale as applied above. However, claims 43 and 48 require the negotiation of communication parameters for communications between the first and second devices to occur at another device (i.e. a third communication device). In Favichia the negotiation of communication parameters occurs at one of the two devices nodes that wishes to communicate. In other words Favichia does not negotiate and configure wireless communications for two nodes at a central sever or intermediary device that is different from the two nodes that wish to communicate. Nonetheless it was widely known in the art at the time of Applicant's invention to negotiate and configure parameters for wireless communication at a central or intermediary device, as evidenced by Tourrilhes. In a similar art Tourrilhes disclosed automatically configuring wireless devices that wish to communicate with other devices on a wireless network 26 at a central configuration system 30 by providing the required communication parameters for the wireless network to each client device (see inter alia Col 4, lines 6-15). By utilizing a central configuration system, Tourrilhes shifts the burden of protocol configuration from the clients to a single server. Since only the server must maintain the

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protocol configuration functionality, as opposed to a plurality of clients as in Favichia, less resources are utilized and thus the system is more efficient. Hence, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to incorporate a central protocol configuration server, as disclosed Tourrilhes, within Favichia's system so that each client device is not required to contain such functionality and the system's resources are more efficiently utilized.

### *Conclusion*

5. The prior art made of record, in PTO-892 form, and not relied upon is considered pertinent to applicant's disclosure.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Reilly whose telephone number is 571-272-4228. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



October 5, 2006



KRISNA LIM  
PRIMARY EXAMINER